

Thompson, Pamela J.

From: Thompson, Pamela J.
Sent: Wednesday, September 13, 2023 10:00 AM
To: Satrom, Bernie L.; Karls, Karen; Klemin, Lawrence; Lefor, Mike; Monson, David C.; Conley, Cole
Cc: Johnson, Brian L.
Subject: Proposed Rules from the ND Public Service Commission
Attachments: 1353.pdf; Letter to HB 1353 Bill Sponsors.pdf; Letter to Legislative Council Enclosing Commission Motion, Proposed Rules, and Full Notice.pdf

Rep. Satrom, Rep. Karls, Rep. Klemin, Rep. Lefor, Rep. Monson, and Sen. Conley,

Attached are:

- Letter to HB 1353 Bill Sponsors
- Packet to the ND Legislative Council which includes:
 - Motion to propose to adopt and amend rules by the ND Public Service Commission during the 06 September Commission Meeting;
 - Proposed administrative rules; and
 - Full Notice.

Thank you,

Pamela Thompson

Executive Assistant

701.328.4096 • pthompson@nd.gov • www.psc.nd.gov

NORTH
Dakota | Public Service Commission
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- 8 GS-23-289 Filed 09/13/2023 Pages: 12
Email to Sponsors of HB 1353 with Letter, Motion, Proposed Rules and Notice
Public Service Commission
- 8 PU-23-264 Filed 09/13/2023 Pages: 12
Email to Sponsors of HB 1353 with Letter, Motion, Proposed Rules and Notice
Public Service Commission

**Sixty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2023**

HOUSE BILL NO. 1353
(Representatives Satrom, Karls, Klemin, Lefor, Monson)
(Senator Conley)

AN ACT to amend and reenact section 49-05-17 of the North Dakota Century Code, relating to resource planning.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 49-05-17 of the North Dakota Century Code is amended and reenacted as follows:

49-05-17. Resource planning.

1. An integrated resource plan must include:
 - a. The electric public utility's forecast of demand for electric generation supply over the planning period with recommended plans for meeting the forecasted demand plus an additional planning reserve margin for ensuring adequate and sufficient reliability of service; and
 - b. Any additional information the commission requests related to how an electric public utility intends to provide sufficient electric generation service for use by retail customers within the state over the planning period.
2. An electric public utility shall include a least cost plan for providing adequate and reliable service to retail customers which is consistent with the provisions of this title and the rules and orders adopted and issued by the commission.
3. The commission may consider the qualitative benefits and provide value to a base-load generation and load-following generation resource and its proximity to load.
4. The commission may contract or consult with an expert to evaluate qualitative benefits of resources and to review reliability planning. The commission may require an electric public utility to pay a fee necessary for completion of an evaluation in an amount not to exceed two hundred fifty thousand dollars.
 - a. If additional funds are necessary for completion of the evaluation, upon approval of the emergency commission, the electric public utility shall pay the additional fees reasonably necessary for the completion.
 - b. If the evaluation applies to more than one electric public utility, the commission may assess each electric public utility the proportionate share of the fee.
5. An electric public utility shall report annually to the commission on ~~cybersecurity preparedness, including an assessment of~~ emerging threats and efforts taken by the electric public utility to implement physical security and cybersecurity measures. The commission ~~may~~shall limit access to records and portions of a meeting relating to physical security and cybersecurity preparedness.

Dennis Johnson
Speaker of the House

Tammy Miller
President of the Senate

Bull J. Reich
Chief Clerk of the House

Mandi Morgan
Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-eighth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1353.

House Vote: Yeas 90 Nays 0 Absent 4

Senate Vote: Yeas 47 Nays 0 Absent 0

Bull J. Reich
Chief Clerk of the House

Received by the Governor at 3:00 PM. on April 7, 2023.

Approved at 2:27 PM. on April 11, 2023.

Doug Burgum
Governor

Filed in this office this 12th day of April, 2023,

at 12:03 o'clock P. M.

Michael Howe
Secretary of State



Public Service Commission

State of North Dakota

COMMISSIONERS

Randy Christmann
Sheri Haugen-Hoffart
Julie Fedorchak

600 East Boulevard, Dept. 408
Bismarck, North Dakota 58505-0480
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September 13, 2023

Rep. Satrom, Rep. Karls, Rep. Klemin, Rep. Lefor, Rep. Monson, and Sen. Conley,

Re: Rulemaking driven by HB 1353

Dear Rep. Satrom, Rep. Karls, Rep. Klemin, Rep. Lefor, Rep. Monson, and Sen. Conley:

I am writing on behalf of the North Dakota Public Service Commission to thank you for introducing HB 1353 during the recent legislative session.

Enclosed is a copy of the revised rules our North Dakota Public Service Commission is proposing and a copy of the Full Notice indicating the date, time, and place for the hearing on these proposed rule changes.

Please do not hesitate to contact me should you have any further input or questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "B. Johnson".

Brian Johnson
Special Assistant Attorney General Bar ID 07937
North Dakota Public Service Commission
600 East Boulevard Avenue Dept. 408
Bismarck ND, 58505
701-328-2407

Enclosures



Public Service Commission

State of North Dakota

COMMISSIONERS

Randy Christmann
Sheri Haugen-Hoffart
Julie Fedorchak

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September 13, 2023

Ms. Liz Fordahl
Assistant Code Revisor
North Dakota Legislative Council
State Capitol
600 East Boulevard, 2nd Floor
Bismarck, ND 58505-0360

Dear Ms. Fordahl:

The Notice of Intent to **Amend** Administrative Rules 69-09-03, and 69-09-12 and a copy of the proposed rules are enclosed as required by N.D.C.C. § 28-32-10(1).

Sincerely,

A handwritten signature in blue ink, appearing to be "BJ", written over a horizontal line.

Brian Johnson
Special Assistant Attorney General Bar ID 07937
North Dakota Public Service Commission
600 East Boulevard Avenue Dept. 408
Bismarck ND, 58505
701-328-2407

Enclosures

APPROVED
DATE: 09/06/2023
DJT

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Public Service Commission
Pipeline Safety
Rulemaking

Case No. GS-23-289

Public Service Commission
Emerging Threats
Rulemaking

Case No. PU-23-264

MOTION

September 6, 2023

I move the Commission propose to adopt and amend the North Dakota Administrative Code as attached, issue a Notice of Intent to Amend Administrative Rules and Notice of Public Hearing, and issue an abbreviated Notice of Intent to Amend Administrative Rules and Notice of Public Hearing for publication in each official county newspaper throughout the state as required by law, in Public Service Commission, Pipeline Safety, Rulemaking, Case No. GS-23-289, and Public Service Commission, Emerging Threats, Rulemaking, Case No. PU-23-264.

Section 69-09-03
Section 69-09-12

- 1 GS-23-289 Filed 09/06/2023 Pages: 1
Commission Motion to Propose Revisions to ND Admin. Code and Issue Notices
Public Service Commission
- 1 PU-23-264 Filed 09/06/2023 Pages: 1
Commission Motion to Propose Revisions to ND Admin. Code and Issue Notices
Public Service Commission

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Public Service Commission
Pipeline Safety
Rulemaking

Case No. GS-23-289

CHAPTER 69-09-03
PIPELINE SAFETY

Section
69-09-03-01 Safety
69-09-03-02 Adoption of Regulations

69-09-03-01. Safety.

Pipeline facilities used for the intrastate distribution and transmission of natural and other gas, liquefied natural gas, or hazardous liquids shall be designed, constructed, and operated to meet the safety standards set forth in regulations of the United States department of transportation adopted in section 69-09-03-02. The commission may require such proof of compliance as it deems necessary.

History: Amended effective July 1, 1986; January 1, 1988; April 1, 2015;_____.

General Authority: NDCC 28-32-02, 49-02-04

Law Implemented: NDCC 49-02-01.2, 49-02-04

69-09-03-02. Adoption of regulations.

The following parts of title 49, Code of Federal Regulations in effect as of ~~December 1, 2021~~ September 6, 2023, are adopted by reference:

1. Part 190 - Pipeline Safety Programs and Rulemaking Procedures.
2. Part 191 - Transportation of Natural Gas and Other Gas by Pipeline, Annual Reports, Incident Reports, and Safety-Related Condition Reports.
3. Part 192 - Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards.
4. Part 193 - Liquefied Natural Gas Facilities: Federal Safety Standards.
5. Part 194 - Response Plans for Onshore Oil Pipelines.
6. Part 195 - Transportation of Hazardous Liquids by Pipeline.

7. Part 199 - Drug and Alcohol Testing.

Copies of these regulations may be obtained from:

Public Service Commission
600 East Boulevard, Dept. 408
Bismarck, ND 58505-0480

History: Effective June 1, 1984; amended effective July 1, 1986; January 1, 1988; March 1, 1990; February 1, 1992; August 1, 1993; August 1, 1994; February 1, 1996; July 1, 1997; July 1, 1998; September 1, 1999; August 1, 2000; January 1, 2002; November 1, 2003; May 1, 2005; July 1, 2006; April 1, 2008; January 1, 2010; April 1, 2012; April 1, 2015; October 1, 2016; July 1, 2018; July 1, 2020; January 1, 2021; October 1, 2022;_____.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 49-02-01.2

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Public Service Commission
Emerging Threats
Rulemaking

Case No. PU-23-264

CHAPTER 69-09-12

RESOURCE PLANS AND ~~CYBERSECURITY~~SECURITY

Section

69-09-12-01 Definitions

69-09-12-02 Resource Plan Procedure

69-09-12-03 Resource Plan Attributes

69-09-12-04 Filing Requirements

69-09-12-05 Security

69-09-12-01. Definitions.

1. "Resource plan" means a set of resource options an electric public utility plans to use to meet

the electric capacity and energy requirements of the utility's customers over a planning horizon, including an explanation of the electric supply and demand circumstances when each resource option would be used to meet the capacity and energy needs in an adequate and reliable manner.

2. "Externality" means numerical costs or quantified values assigned to represent environmental costs that are not internalized in the cost of production, or the market price of electricity from a particular electric resource or the alleged costs of complying with future environmental laws or regulations that have not yet been enacted.

3. "Renewable integration cost" means the cost of measures to help meet the incremental needs of the system as more renewable energy is added to the resource mix.

4. "Unserved energy" means the amount of end-customer demand measured in megawatt-hours that cannot be supplied due to a deficiency of generation either generated or imported by the electric public utility or transmission capacity.

5. "Security" means physical security and cybersecurity.

History: Effective January 1, 2023; amended effective _____.

General Authority: NDCC 49-02-04

Law Implemented: NDCC 49-05-04.4, 49-05-17

69-09-12-05. Security.

1. An electric public utility shall meet with the commission annually to report on ~~cybersecurity~~security preparedness.

2. The report must provide:

a. Information on the policies, procedure, and process used to inform the management of ~~cybersecurity~~security risk;

b. Information on any critical technology, constraints related to procurement, supply chain risk, impact of compromise to the supply chain, and controls to manage risk associated with dependency on external entities;

c. An assessment of emerging threats and efforts taken by the electric public utility to implement ~~cybersecurity~~security measures;

d. A description of the process used to support compliance with applicable standards, laws, regulations, and best practices;

e. A description of the policies and protections used to ensure the security of information and operational systems and safeguard against loss of confidential information;

f. Information on activities to monitor, detect, and analyze information related to ~~cybersecurity~~security threats;

g. Information on the systems used for collaboration and communication of information and intelligence sharing;

h. Information on activities used to address a detected ~~cybersecurity~~security incident, contain impacts, limit potential damage, and manage consequences of a ~~cybersecurity~~security incident;

i. Information on any plans to maintain resilience and business continuity, timely recovery to normal operations, and corrective actions after occurrence of an incident;

j. Information or plans for asset sharing with other electric public utilities and electrical cooperatives to maintain services in the event of a security incident;

k. Information on tabletop and field training exercises regarding security;

3. The commission may close the meeting to discuss the cybersecurity report, unless the commission orders otherwise.

History: Effective January 1, 2023: amended effective _____.

General Authority: NDCC 49-02-04

Law Implemented: NDCC 49-05-17

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Public Service Commission
Pipeline Safety
Rulemaking**

Case No. GS-23-289

**Public Service Commission
Emerging Threats
Rulemaking**

Case No. PU-23-264

**NOTICE OF INTENT TO ADOPT AND AMEND ADMINISTRATIVE RULES AND
NOTICE OF PUBLIC HEARING**

September 6, 2023

PLEASE TAKE NOTICE that the North Dakota Public Service Commission will hold a public hearing to address proposed amendments to N.D. Admin. Code **69-09-12**, and N.D. Admin. Code **69-09-03**.

A public hearing will be held on the proposed rules at **10:30 a.m. Central Time on October 10, 2023, in the Commission Hearing Room, 12th floor, State Capitol, Bismarck, North Dakota**. Written comments may be submitted to the Public Service Commission until the close of business on **October 20, 2022**.

The proposed adoption and revisions to the North Dakota Administrative Code are as follows:

Case No. GS-23-289 - Section 69-09-03-01 and Section 69-09-03-02 – Pipeline Safety

The purpose of this amendment is to adopt by reference the most recent amendments to pipeline safety regulations adopted by the United States Department of Transportation, Pipeline and Hazardous Materials Safety Administration (PHMSA). This rule change adopts amendments to safety regulations that have been adopted by PHMSA since December 1, 2021, current to September 6, 2023. The proposed change is not expected to have an impact on the regulated community in excess of \$50,000.

Case No. PU-23-264 - Section 69-09-12-01 and Section 69-09-12-05 – Resource Plans and Cyber Security

3 GS-23-289 Filed 09/06/2023 Pages: 2
(Full) Notice of Intent to Adopt and Amend Administrative Rules and Notice of Public Hearing
Public Service Commission

3 PU-23-264 Filed 09/06/2023 Pages: 2
(Full) Notice of Intent to Adopt and Amend Administrative Rules and Notice of Public Hearing
Public Service Commission

The purpose of this amendment is to change cybersecurity to Security which means physical and cyber security. The proposed change is not expected to have an impact on the regulated community in excess of \$50,000.

The proposed rulemaking implements House Bill 1353 enacted by the 68th Legislative Session, relating to Resource Planning and the annual reporting requirements an electric public utility shall report each year to include physical security as well as cyber security.

The proposed rules and amendments may be reviewed at the Public Service Commission's offices on the 12th floor of the State Capitol, 600 East Boulevard Ave, Dept. 408, Bismarck, North Dakota. A copy of the proposed rules or amendments and/or a regulatory analysis may be requested by writing the above address, emailing ndpsc@nd.gov, or calling 701-328-2400, toll free 1-877-245-6685, Relay North Dakota TTY 1-800-366-6888. This information is also available on the Commission's web site at www.psc.nd.gov under "Formal Actions/Case Search".

Interested persons may attend and submit comments at the hearing. Oral or written comments on the proposed rules may be submitted to the above address, email and phone numbers. Oral and written comments received by the close of business on **October 20, 2023**, will be fully considered.

If you plan to attend the public hearing and will need special facilities or assistance relating to a disability, please notify the Public Service Commission at the above telephone number or address at least 24 hours prior to the public hearing.

PUBLIC SERVICE COMMISSION



Sheri Haugen-Hoffart
Commissioner



Randy Christmann
Chair



Julie Fedorchak
Commissioner